

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHRISTOPHER MCDANIEL,

Plaintiff,

v.

T. BECHARD,

Defendant.

Case No. 18-12843

Honorable Laurie J. Michelson

Magistrate Judge Patricia T. Morris

**ORDER ADOPTING REPORT AND RECOMMENDATION [19], GRANTING
PLAINTIFF'S MOTION FOR LEAVE TO AMEND COMPLAINT [13] AND
MOOTING PRIOR REPORT AND RECOMMENDATION [11]**

Before the Court is Magistrate Judge Patricia T. Morris's February 20, 2019 Report and Recommendation. (ECF No. 19.) At the conclusion, Magistrate Judge Morris notified the parties that they were required to file any objections within fourteen days of service, as provided in Federal Rule of Civil Procedure 72(b)(2) and Eastern District of Michigan Local Rule 72.1(d), and that "[f]ailure to file specific objections constitutes a waiver of any further right of appeal." (ECF No. 19, PageID.101.) It is now March 26, 2019. As such, the time to file objections has expired. No objections have been filed.

The Court finds that the parties' failure to object is a procedural default, waiving review of the Magistrate Judge's findings by this Court. In *United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981), the Sixth Circuit established a rule of procedural default, holding that "a party shall file objections with the district court or else waive right to appeal." And in *Thomas v. Arn*, 474 U.S. 140, 144 (1985), the Supreme Court explained that the Sixth Circuit's waiver-of-appellate-review rule rested on the assumption "that the failure to object may constitute a procedural default waiving review even at the district court level." 474 U.S. at 149; *see also*

Garrison v. Equifax Info. Servs., LLC, No. 10-13990, 2012 WL 1278044, at *8 (E.D. Mich. Apr. 16, 2012) (“The Court is not obligated to review the portions of the report to which no objection was made.” (citing *Thomas*, 474 U.S. at 149–52)). The Court further held that this rule violates neither the Federal Magistrates Act nor the Federal Constitution.

The Court therefore finds that the parties have waived further review of the Magistrate Judge’s Report and accepts her recommended disposition. It follows that the Plaintiff’s motion for leave to amend his complaint (ECF No. 13) is GRANTED and the Magistrate Judge’s November 21, 2018 Report and Recommendation is rendered MOOT (ECF No. 11). Plaintiff has sufficiently pled his claims to proceed through initial screening.

IT IS SO ORDERED.

s/Laurie J. Michelson
LAURIE J. MICHELSON
UNITED STATES DISTRICT JUDGE

Date: March 26, 2019

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon counsel of record and/or pro se parties on this date, March 26, 2019, using the Electronic Court Filing system and/or first-class U.S. mail.

s/William Barkholz
Case Manager